

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

**(1) MAC SYSTEMS, INC., an Oklahoma  
Corporation,**

**Plaintiff,**

**vs.**

**(1) NAVIGATORS SPECIALTY  
INSURANCE COMPANY, a New York  
Corporation,**

**Defendants.**

**Case No. 18-cv-00356-GKF-FHM**

**AMENDED COMPLAINT**

COMES NOW the Plaintiff, Mac Systems, Inc. (“Mac Systems”) and for its cause of action against the Defendant, Navigators Specialty Insurance Company (“Navigators”), alleges and states as follows:

**Parties, Jurisdiction, and Venue**

1. Mac Systems is an Oklahoma corporation with its principal place of business in Tulsa County, Oklahoma, within the Northern District of Oklahoma.
2. Navigators is a New York corporation which is qualified and registered to do business as an insurer in the State of Oklahoma.
3. Jurisdiction is afford to this Court pursuant to the provisions of 28 U.S.C. § 1332 and venue is likewise appropriate pursuant to the provisions of 28 U.S.C. § 1291.

**Operative Facts**

4. Plaintiff restates and incorporates the allegations of Paragraphs 1-3, above, as though fully restated herein.

5. Navigators issued Commercial General Liability Policy number NY17CGL217396IC (the “Policy”) to Mac Systems.

6. The effective date of the Policy was May 1, 2017 to May 1, 2018.

7. The Policy provided coverage in the amount of \$1,000,000 per occurrence.

8. The Policy was a Self-Insured Retention (“SIR”) policy with a \$15,000.00 SIR.

9. On September 11, 2015, Mac Systems entered into a subcontract relationship with JE Dunn Construction Company under which Mac Systems was to install the fire protection system for the University of Oklahoma residence halls.

10. On or about May 8, 2017, a coupling which was installed by Mac Systems broke, resulting in water damage to the residence halls (the “Loss”).

11. The estimated total damage was \$99,920.57. As a result of the Loss, Mac Systems has not been paid in excess of \$75,000.00 for work completed under the contract with JE Dunn. In addition, JE Dunn has made demand upon Mac Systems for payment in excess of \$23,000.00.

12. On or about May 10, 2017, Mac Systems submitted a claim to Navigators under the Policy.

13. Mac Systems paid the \$15,000.00 SIR directly to JE Dunn, as a precondition to receipt of benefits under the Policy.

14. Under the circumstances of the claim, Navigators was required under the terms of the Policy to cover the Loss and to pay Mac Systems’ claim.

15. Navigators, however, failed to conduct any investigation as to Mac Systems’ claim until May 2018, a year after the claim was submitted.

16. On or about May 22, 2018 Mac Systems received a written communication from Navigators by which Navigators denied Mac Systems’ claim and refused to pay any benefits under

the Commercial General Liability Policy, asserting that there was no coverage under the Policy. Navigators' denial of the claim was based upon an unreasonable and bad-faith interpretation of an endorsement to the Policy.

17. Navigators' refusal and failure to offer any benefits to Mac Systems has directly resulted in damages to Mac Systems.

**Count One—Breach of Contract**

18. Plaintiff restates and incorporates the allegations of Paragraphs 1-17, above, as though fully restated herein.

19. Mac Systems timely and properly presented a claim to Navigators under the Policy.

20. Navigators breached its Policy with Mac Systems by failing to acknowledge, properly investigate, and provide timely payments to Mac Systems' first-party claim under the Commercial General Liability Policy.

21. Mac Systems has performed all conditions precedent to recovery under the insurance policy and has made due demand for payment thereof.

22. As a direct result of Navigators' breach, Mac Systems has sustained damages in excess of \$75,000.00, exclusive of interest and costs.

**Count Two—Bad Faith**

23. Plaintiff restates and incorporates allegations of Paragraphs 1-22, above, as though fully restated herein.

24. Navigators' refusal to pay Mac Systems' claim was unreasonable under the circumstances, because Navigators had no reasonable basis to deny said claim, failed to timely and properly investigate said claim, and/or did not properly evaluate the results of its investigation.

25. Navigators did not deal fairly and in good faith with Mac Systems in the handling and denial of Mac Systems' claim.

26. Navigators' unreasonable bad-faith conduct as described has directly caused Mac Systems to incur damage in an amount in excess of \$75,000.00, exclusive of interest and costs.

27. Furthermore, Navigators' conduct evinces a reckless or intentional disregard to Mac Systems' rights and to Navigators' duties to its insured, which entitles Mac Systems to an additional award of exemplary damages in an amount to be determined under 23 Okla.Stat. §9.1.

WHEREFORE, premises considered, Plaintiff, Mac Systems, Inc. prays for judgment against Defendant, Navigators Specialty Insurance Company, in an amount in excess of \$75,000.00, with interest thereon at the highest legal rate from May 8, 2017 until paid, and for punitive damages in an amount to be determined under 23 Okla.Stat. §9.1, together with all costs for this action, including attorney fees, and all other relief as the Court may deem just and proper.

**BARBER & BARTZ**

s/ Adrienne N. Cash

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**ATTORNEYS FOR MAC SYSTEMS, INC.**

JURY TRIAL DEMANDED

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